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Jessica M. Barnes

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EXAMINER

SALLIARD, SHANNON S

ART UNIT

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3628

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10/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/893,240	Applicant(s) BARNES ET AL.	
	Examiner SHANNON S. SALIARD	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Applicant has amended claim 1 and cancelled claims 4 and 15-16. No claims have been newly added. Thus, claims 1-3 and 5-14 remain pending and are presented for examination.

Response to Arguments

2. Applicant's arguments filed 24 July 2008, with respect to the rejection of claim 1 under 35 U.S.C. 112, Second Paragraph have been fully considered and are persuasive. Thus, the rejection of claim 1 under 35 U.S.C. 112, Second Paragraph has been withdrawn.

3. In response to Applicant's argument that Mann nor Glenn teach the amended limitation that the second electronic image of the passenger is recorded on an aircraft upon entry (claim 1), Examiner asserts that Mann teaches comparing and verifying the second image to the prior image of the passenger. Specifically, Mann discloses, "When the user or patron wishes to attend the event or use the transit system or the like, the user or patron will enter one of the turnstiles 102 and submit to a biometric scan. The biometric scanners in turnstiles 102 will **capture a real time stable physical characteristic image** (such as an iris pattern) directly from a person; encode the image; and **compare the encoded image to stored physical characteristic data in database 106**. **If the captured image is not recognized as corresponding to any of the stored data access is denied and the user or patron is directed to seek**

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assistance from onsite personnel, or through an intercom or video conference system. Although the system is described herein in terms of the iris scanning embodiment, the biometric sensors used may rely on any stable physical characteristic or on a combination of such characteristics for identification purposes. **What is important is that the characteristic or characteristics chosen be capable of uniquely identifying an individual as the authorized individual who purchased the seats or transit access, within an acceptable margin of error**". (col 5, lines 46-65).

Furthermore, Glenn teaches taking an image of a passenger on an aircraft (0012; 0026; 0032). While it is true that Glenn does not explicitly teach that the image is taken upon entry, it would have been obvious to one of ordinary skill in the art at the time of the invention to have recorded an image upon entry on the aircraft since it is well within the capabilities of one of ordinary skill in the art to attach and install the camera and associated software for recording the image at the entry of the aircraft to the image recording system of Glenn with the predicted result of producing video information of value to investigators or for improved operations. (Glenn: 0024).

4. Applicant further argues, "Glenn teaches away from the present disclosure because Glenn teaches "recording image data of flight parameters and events," not a method for processing an international passenger." First, Examiner notes that the limitation, "A method for processing an international passenger" is included in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the

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process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Furthermore, it is noted that the features upon which applicant relies (i.e., processing an international passenger) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-3, 5-9, and 12-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann et al (6,119,096) in view of Glenn et al (US 2002/0004695).

As per **Claim 1**, Mann et al ('096) discloses: entering information identifying the passenger a first time into a computer interface, [see figure 12 (202)]; recording a first electronic image of the passenger, [see figure 12 (204)]; comparing a prior image of the passenger to the first image, [see figure 6 (610)]; sending information identifying the passenger to a government or government agent in a destination country, [see column 6, lines 44-49, and column 8, lines 52-54]; entering information identifying the passenger a second time into a computer interface before departure and verifying an

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identity of the passenger, [see figure 6 (612)]; recording a second electronic image of the passenger, [see figure 6 (616)]; comparing and verifying the second image to the prior image of the passenger, [col 5, lines 46-65; See figure 6 (616)]; and routing the passenger in accordance with the data and an instruction from the government or government agent, [see figure I b (124, 126)].

Mann et al does not explicitly disclose wherein the second electronic image is recorded on an aircraft upon entry. However, Glenn et al discloses a method of recording electronic images of a passenger within an aircraft cabin [0012; 0026; 0032]. Glenn does not explicitly teach that the image is taken upon entry, it would have been obvious to one of ordinary skill in the art at the time of the invention to have recorded an image upon entry on the aircraft since it is well within the capabilities of one of ordinary skill in the art to attach and install the camera and associated software for recording the image at the entry of the aircraft to the image recording system of Glenn with the predicted result of producing video information of value to investigators or for improved operations. (Glenn: 0024).

As per **Claim 2**, Mann et al ('096) further discloses the first electronic image is recorded in an originating country, [see column 5, lines 3-18].

As per **Claim 3**, Mann et al ('096) further discloses the first electronic image is transmitted to a destination country, [see column 6, lines 28-57].

As per **Claim 5**, Mann et al ('096) further discloses the electronic image is selected from a group consisting of a photograph, a fingerprint an iris scan and a voiceprint, [see column 5, lines 2-18].

As per **Claim 6**, Mann et al ('096) further discloses the entering of flight information for the passenger into the computer interface, [see column 16, lines 56-65].

As per **Claim 7**, Mann et al ('096) further discloses retrieving data of passengers scheduled for a flight from a first computer memory and storing the data in a second computer memory, [see column 16, line 56 - column 17, line 20 and column 6, lines 28-57].

As per **Claim 8**, Mann et al ('096) further discloses the comparing is performed by a computer with software selected from the groups consisting of feature recognition software, voice recognition software and facial recognition software, [see column 5, lines 2-18].

As per **Claim 9**, Mann et al ('096) further discloses taking a subsequent image of the passenger and comparing the subsequent image to the first electronic image, and routing the passenger according to the result of a comparison of the first electronic image and the subsequent image, [see figure 6 (610, 616)].

As per **Claim 12**, Mann et al ('096) further discloses giving the passenger notice of an instruction of the government or government agent, [see figure 1b (124, 126)].

As per **Claim 13**, Mann et al ('096) further discloses no instruction is received from the government and the passenger is not required to process through customs, [see figure 1b (124)].

7. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mann et al (6,119,096) in view Glenn et al (US 2002/0004695) as applied to claim 1 above, and in further view of Official Notice.

As per **Claim 10**, Mann et al ('096) discloses filling out forms on a computer and sending them to an agent of the government and routing the passenger according to a government or government agent, [see column 5, lines 3-45], but does not specifically disclose filling out customs declaration forms. Official Notice is taken that it is old and well known that any type of form can be filled out and sent. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to fill out a customs declaration form in Mann et al's system for the benefit of increased speed of processing through the airport.

8. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mann et al (6,119,096) in view of Glenn et al (US 2002/0004695) as applied to claim 1 above, and in further view of Diamond et al (6,698,653).

As per **Claim 11**, Mann et al ('096) further discloses a tag with memory associated with the baggage, sending the data (tag with baggage) and routing the baggage, [see column 17, lines 7-59], but does not disclose electronically inspecting luggage of the passenger, making a record of the electronic inspecting, entering the record into the computer memory, sending to the government or government agent, and routing the baggage in accordance with the government or government agent. Diamond et al (653) teaches inspecting luggage of the passenger, making a record of

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the electronic inspecting, entering the record into the computer memory, sending to the government or government agent, and routing the baggage in accordance with the government or government agent, [see figure 2 (22, 23), figure 6 (78, 79, 84) and figure 9 (134)] for the benefit of monitoring that baggage contains no prohibited items and that passengers board the plane with their luggage. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to inspect baggage, enter records into a computer memory and send the data to an agent and route the baggage in accordance with the agent for the benefit of monitoring that baggage contains no prohibited items and that passengers board the plane with their baggage.

9. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mann et al (6,119,096) in view of Glenn et al (US 2002/0004695) as applied to claim 1 above, applicant's disclosure.

As per **Claim 14**, Mann et al ('096) does not specifically disclose if no instruction is received from the government or government agent and the passenger is automatically required to process through customs Or immigration or both customs and immigration. Applicant's application, page 1, lines 19-21 teaches that it is old and well known to automatically require the passenger to process through customs and immigration to control the flow of goods and people into a country. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to if no instruction is received from the government or government agent and the

passenger is automatically required to process through customs or immigration or both customs and immigration to control the flow of goods and people into a country.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANNON S. SALIARD whose telephone number is (571)272-5587. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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